

## Substance

The EPA is updating the agency's 304(a) cadmium aquatic life ambient water quality criteria for final publication. These criteria provide scientifically sound recommendations to states for levels that are protective of aquatic communities. States may choose to adopt the 304(a) criteria or other scientifically defensible values in their water quality standards. The cadmium criteria revise acute and chronic freshwater and estuarine/marine values that were last updated in 2001. The updated criteria values are very similar to what they were in 2001. The EPA used the approach it routinely uses in developing aquatic life recommended criteria to develop the criteria, and added new toxicity data representing over 75 additional freshwater species.

The driver for updating the cadmium criteria was a lawsuit brought by Northwest Environmental Advocates following the EPA's 2013 disapproval of Oregon's freshwater acute cadmium criterion. The EPA's disapproval triggered a CWA duty for the EPA to propose a replacement criterion for Oregon. The agency is currently negotiating a settlement with the litigants in which the EPA would commit to propose these new cadmium criteria for Oregon by March 31, 2016, and take final rulemaking action by January 16, 2017.

## Ex. 5 - Deliberative Process

**Ex. 5 - Deliberative Process** The 2016 updated freshwater acute criterion is slightly more stringent than the 2001 value. A draft Endangered Species Act analysis prepared by the EPA indicates that the updated freshwater acute criterion is expected to provide protection for endangered salmonids, based the minimal acute effects level (5%) specified by the NMFS in their Reasonable and Prudent Alternatives. It is likely, however, that the Services may still question this criterion as they expected our update to result in an even more stringent value.

## Process

Office of Science and Technology partnered within the agency with Office of Research and Development to develop the criteria. The criteria were reviewed by the Office of Research and Development, Office of Chemical Safety and Pollution Prevention, and the Regions (3, 4, 5, 8, 9, and 10) and Office of Policy. The EPA conducted an external contractor-led letter peer review on the criteria document that was completed in 2015. The document was available for a 60-day public comment period which ended February 1, 2016.

## Stakeholder Reaction

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